

**ASSEMBLY BILL**

**No. 1349**

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**Introduced by Assembly Member Torlakson**

February 27, 2009

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An act to amend Sections 8483.5, 8483.51, and 8483.7 of the Education Code, relating to before and after school programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1349, as introduced, Torlakson. After School Education and Safety Program Act of 2002.

(1) The After School Education and Safety Program Act of 2002, enacted by the initiative measure Proposition 49, establishes the After School Education and Safety Program to serve pupils in kindergarten and grades 1 to 9, inclusive, at participating public elementary, middle, junior high, and charter schools. The act continuously appropriates each fiscal year an amount up to \$550,000,000 from the General Fund to the State Department of Education for purposes of the After School Education and Safety Program, except in fiscal years when the state's minimum funding obligation for schools is determined pursuant to a specified provision, in which case the appropriation for the program is reduced by a specified percentage.

This bill would revise the formula by which the percentage reduction is determined and would specify that the state would not incur a maintenance factor when the appropriation is reduced.

(2) Existing law makes the continuous appropriation for purposes of the After School Education and Safety Program available for encumbrance for one year after the date upon which they first become available for encumbrance and subject to reversion to the General Fund.

This bill instead would make the appropriation subject to reversion to the Proposition 98 Reversion Account.

(3) Existing law makes a school that establishes a program pursuant to the After School Education and Safety Program eligible to receive a 3-year direct grant that is awarded in 3 one-year increments. The amount of these grants is determined, in part, on a per-pupil basis.

This bill would provide that the per-pupil rates may be adjusted for cost of living in the annual Budget Act.

(4) The California Constitution authorizes the Legislature to amend an initiative statute by another statute that becomes effective only when approved by the voters unless the initiative statute permits amendment or repeal without the approval of the voters. The initiative measure that enacted the After School Education and Safety Program Act of 2002 authorizes the Legislature to amend, by statute passed in each house by a majority vote of the membership concurring and signed by the Governor, certain of its provisions to further the purpose of the initiative statute.

The bill would provide for one of its provisions to be submitted to the voters for approval and would state a legislative finding and declaration that the other provisions further the purpose of the initiative measure.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 8483.5 of the Education Code is amended  
2     to read:  
3     ~~8483.5. (a) It is the intent of the Legislature that a minimum~~  
4     ~~of eighty-five million dollars (\$85,000,000) be appropriated for~~  
5     ~~the program established pursuant to this article, through the annual~~  
6     ~~Budget Act. Of the funds appropriated for the program, current~~  
7     ~~grant recipients have priority for receiving continued funding for~~  
8     ~~the same purposes for which they previously received an award.~~  
9     ~~This subdivision shall be in effect only until June 30, 2004.~~  
10    ~~(b) Commencing with the fiscal year beginning July 1, 2004,~~  
11    ~~and for each fiscal year thereafter, there shall~~  
12    8483.5. (a) There shall be continuously appropriated each  
13    fiscal year to the State Department of Education department from  
14    the General Fund for the program established pursuant to this

1 article an amount not to exceed five hundred fifty million dollars  
2 (\$550,000,000) that is the greater of (1) an amount equal to the  
3 appropriation from the General Fund for the program established  
4 pursuant to this article for the immediately preceding fiscal year,  
5 or (2) an amount equal to the sum of (A) the appropriation from  
6 the General Fund for the program established pursuant to this  
7 article for fiscal year 2003–04 and (B) the amount by which the  
8 state’s non-guaranteed General Fund appropriations for the current  
9 fiscal year exceed the sum of (i) the amount of the state’s  
10 non-guaranteed General Fund appropriations for the base year plus  
11 (ii) one billion five hundred million dollars (\$1,500,000,000).  
12 ~~Nothing in this section prohibits~~ *This section does not prohibit* the  
13 Legislature from appropriating funds *in excess of this continuous*  
14 *appropriation* for the program established pursuant to this article  
15 ~~in excess of this continuous appropriation.~~

16 (e)

17 (b) For purposes of this section, the term “state’s non-guaranteed  
18 General Fund appropriations” shall mean those General Fund  
19 appropriations of the state in a fiscal year other than those  
20 appropriations guaranteed to be applied by the state for the support  
21 of school districts and community college districts pursuant to  
22 Sections 8 and 8.5 of Article XVI of the California Constitution.  
23 For purposes of this section, the “base year” is the fiscal year  
24 during the period July 1, 2000 through June 30, 2004 for which  
25 the state’s non-guaranteed General Fund appropriations are the  
26 highest as compared to any other fiscal year during such period.

27 (d)

28 (c) (1) Notwithstanding subdivision ~~(b)~~ (a), in ~~any~~ a fiscal year  
29 in which the Legislature has legal authority pursuant to paragraph  
30 (3) of subdivision (b) of Section 8 of Article XVI of the California  
31 Constitution to reduce the moneys applied by the state for the  
32 support of school districts and community college districts for the  
33 current fiscal year as compared to the moneys applied by the state  
34 for the support of school districts and community colleges during  
35 the immediately preceding fiscal year, the continuous appropriation  
36 pursuant to subdivision ~~(b)~~ shall (a) *may* be reduced for that fiscal  
37 year by the same percentage by which the moneys applied by the  
38 state for the support of school districts and community college  
39 districts in the current fiscal year is less than the moneys *that would*  
40 *be* applied by the state for the support of school districts and

1 community college districts ~~during the immediately preceding~~  
2 ~~fiscal year~~ under paragraph (2) of subdivision (b) of Section 8 of  
3 Article XVI of the California Constitution.

4 (2) *If this subdivision becomes applicable, the state shall not*  
5 *incur an obligation to provide a maintenance factor for purposes*  
6 *of this section.*

7 (e)

8 (d) All funds expended pursuant to this article shall be used  
9 only for the purposes expressed in this article. Except for funds  
10 expended pursuant to subdivision ~~(b)~~ (a) of Section 8482.55, all  
11 funds expended pursuant to this article shall be used to supplement  
12 and not supplant existing levels of service.

13 SEC. 2. Section 8483.51 of the Education Code is amended to  
14 read:

15 8483.51. (a) For purposes of Section 8483.5, the term  
16 “continuously appropriated” shall not be construed to mean  
17 “without regard to fiscal year.” The funds appropriated pursuant  
18 to subdivision ~~(b)~~ (a) of Section 8483.5 are available for  
19 encumbrance for one year after the date upon which they first  
20 become available for encumbrance and are subject to Section  
21 16304.1 of the Government Code.

22 (b) *Upon expiration of two years following the last day of the*  
23 *period of its availability, the undisbursed balance of an*  
24 *appropriation made pursuant to subdivision (a) of Section 8483.5*  
25 *shall revert to the Proposition 98 reversion account.*

26 SEC. 3. Section 8483.7 of the Education Code is amended to  
27 read:

28 8483.7. (a) (1) (A) Each school that establishes a program  
29 pursuant to this article is eligible to receive a three-year direct  
30 grant, that shall be awarded in three one-year increments and is  
31 subject to *the* semiannual attendance reporting and requirements  
32 as described in Section 8482.3 once every three years.

33 (i) The department shall provide technical support for *the*  
34 development of a program improvement plan for grantees under  
35 the following conditions:

36 (I) If actual pupil attendance falls below 75 percent of the target  
37 attendance level in any year of the grant.

38 (II) If the grantee fails, in any year of the grant, to demonstrate  
39 measurable outcomes pursuant to Section 8484.

1 (ii) The department shall adjust the grant level of ~~any~~ a school  
2 within the program that is under its targeted attendance level by  
3 more than 15 percent in each of two consecutive years.

4 (iii) In any year after the initial grant year, if the actual  
5 attendance level of a school within the program falls below 75  
6 percent of the target attendance level, the department shall perform  
7 a review of the program and adjust the grant level as the department  
8 deems appropriate.

9 (iv) The department shall create a process to allow a grantee ~~to~~  
10 voluntarily to lower its annual grant amount if one or more sites  
11 are unable to meet the proposed pupil attendance levels by the end  
12 of the second year of the grant.

13 (v) A grantee who has had its grant amount reduced may  
14 subsequently request an increase in funding up to the maximum  
15 grant amounts provided under this subdivision.

16 (vi) The department may terminate the grant of ~~any~~ a site or  
17 program that does not comply with fiscal reporting, attendance  
18 reporting, or outcomes reporting requirements established by the  
19 department and pursuant to Section 8484. The department may  
20 withhold the grant allocation for a program or site if the prior grant  
21 year's fiscal or attendance reporting remain outstanding, until the  
22 reports have been filed with the department.

23 (vii) Notwithstanding any other provision of this subdivision  
24 or any other provision of law, after the technical assistance required  
25 under clause (i) has been provided, the department may at any time  
26 terminate the grant of any school in a program that fails for three  
27 consecutive years to meet either of the following requirements:

28 (I) Demonstrate measurable program outcomes pursuant to  
29 Section 8484.

30 (II) Attain 75 percent of its proposed attendance level after  
31 having had its program reviewed and grant level adjusted by the  
32 department.

33 (B) Direct grants may be awarded to applicants that have  
34 demonstrated readiness to begin operation of a program or to  
35 expand existing programs.

36 (C) The maximum total direct grant amount awarded annually  
37 pursuant to this paragraph shall be one hundred twelve thousand  
38 five hundred dollars (\$112,500) for each regular school year for  
39 each elementary school and one hundred fifty thousand dollars  
40 (\$150,000) for each regular school year for each middle or junior

1 high school. The superintendent shall determine the total annual  
2 direct grant amount for which a site is eligible based on a formula  
3 of seven dollars and fifty cents (\$7.50) per pupil per day of pupil  
4 attendance that the program plans to serve, with a maximum total  
5 grant of thirty-seven dollars and fifty cents (\$37.50) per projected  
6 pupil per week, and a formula of seven dollars and fifty cents  
7 (\$7.50) per projected pupil per day of staff development, with a  
8 maximum of three staff development days per year. A program  
9 may provide the three days of staff development during regular  
10 program hours using funds from the total grant award.

11 (2) For large schools, the maximum total grant amounts  
12 described in paragraph (1) may be increased based on the following  
13 formulas, up to a maximum amount of twice the respective limits  
14 specified in paragraph (1):

15 (A) For elementary schools, multiply one hundred thirteen  
16 dollars (\$113) by the number of pupils enrolled at the schoolsite  
17 for the normal schoolday program that exceeds 600.

18 (B) For middle schools, multiply one hundred thirteen dollars  
19 (\$113) by the number of pupils enrolled at the schoolsite for the  
20 normal schoolday program that exceeds 900.

21 (3) The maximum total grant amounts set forth in subparagraph  
22 (C) of paragraph (1) may be increased from any funds made  
23 available for this purpose in the annual Budget Act for participating  
24 schools that have pupils on waiting lists for the program. Grants  
25 may be increased by the lesser of an amount that is either 25  
26 percent of the current maximum total grant amount or equal to the  
27 proportion of pupils unserved by the program as measured by  
28 documented waiting lists as of January 1 of the previous grant  
29 year, compared to the actual after school enrollment on the same  
30 date. The amount of the required cash or in-kind matching funds  
31 shall be increased accordingly. First priority for an increased  
32 maximum grant pursuant to this paragraph shall be given to schools  
33 that qualify for funding pursuant to subdivision (b) of Section  
34 8482.55. Second priority shall be given to schools that receive  
35 funding priority pursuant to subdivision (f) of Section 8482.55.

36 (4) A school that establishes a program pursuant to this section  
37 is eligible to receive a supplemental grant to operate the program  
38 in excess of 180 regular schooldays or during any combination of  
39 summer, intersession, or vacation periods for a maximum of the  
40 lesser of the following amounts:

1 (A) Seven dollars and fifty cents (\$7.50) per day per pupil.

2 (B) Thirty percent of the total grant amount awarded to the  
3 school per school year pursuant to subparagraph (C) of paragraph  
4 (1).

5 (5) Each program shall provide an amount of cash or in-kind  
6 local funds equal to not less than one-third of the total grant from  
7 the school district, governmental agencies, community  
8 organizations, or the private sector. Facilities or space usage may  
9 fulfill not more than 25 percent of the required local contribution.

10 (6) (A) A grantee may allocate, with departmental approval,  
11 up to 125 percent of the maximum total grant amount for an  
12 individual school, so long as the maximum total grant amount for  
13 all school programs administered by the program grantee is not  
14 exceeded.

15 (7) *The per-pupil rates specified in this subdivision may be*  
16 *adjusted for cost of living in the annual Budget Act.*

17 (B) A program grantee that transfers funds for purposes of  
18 administering a program pursuant to subparagraph (A) shall have  
19 an established waiting list for enrollment; and may transfer only  
20 from another school program that has met a minimum of 70 percent  
21 of its attendance goal.

22 (b) The administrator of a program established pursuant to this  
23 article may supplement, but not supplant, existing funding for after  
24 school programs with grant funds awarded pursuant to this article.  
25 State categorical funds for remedial education activities shall not  
26 be used to make the required contribution of local funds for those  
27 after school programs.

28 (c) Up to 15 percent of the initial year's grant amount for each  
29 grant recipient may be utilized for startup costs. Under no  
30 circumstance shall funding for startup costs result in an increase  
31 in the grant recipient's total funding above the approved grant  
32 amount.

33 (d) For each year of the grant, the department shall award the  
34 total grant amount for that year not later than 30 days after the date  
35 the grantee accepts the grant.

36 (e) The department may adjust the amount of a direct grant,  
37 awarded to a new applicant pursuant to this section, on the basis  
38 of the program start date, as determined by the department.

1 SEC. 4. The Legislature finds and declares that Sections 2 and  
2 3 of this act further the purposes of the After School Education  
3 and Safety Program Act of 2002.

4 SEC. 5. Section 1 of this act shall become effective only if  
5 approved by the voters pursuant to subdivision (c) of Section 10  
6 of Article II of the California Constitution.

7 SEC. 6. The Secretary of State shall submit Section 1 of this  
8 act to the voters at the June 8, 2010, direct primary election in  
9 accordance with provisions of the Government Code and the  
10 Elections Code governing the submission of a statewide measure  
11 to the voters.